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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF UTAH, CENTRAL DIVISION**

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KODY BROWN, MERI BROWN, JANELLE  
BROWN, CHRISTINE BROWN, ROBYN  
SULLIVAN,

Plaintiffs,

v.

GARY R. HERBERT, in his official capacity  
as Governor of Utah; MARK SHURTLEFF, in  
his official capacity as Attorney General of  
Utah; JEFFREY R. BUHMAN, in his official  
capacity as County Attorney for Utah County,

Defendants.

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)  
) **PLAINTIFFS' NOTICE OF NEW**  
) **AUTHORITY**  
)

)  
) Judge Waddoups  
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) Civil No. 2:11-cv-00652-CW  
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### **PLAINTIFFS' NOTICE OF NEW AUTHORITY**

The above named Plaintiffs, through counsel of record, hereby give notice of new developments in state law that have bearing on the pending cross motions for summary judgment. On January 17, 2013, this Court took these dispositive motions under advisement pending its final ruling on the merits. During that hearing, counsel for the Defendant argued that Utah's criminal bigamy law was consistent with laws in other states, Transcript, Jan. 17, 2013 (statement of Mr. Jerrold Jensen),<sup>1</sup> a point contested by Plaintiffs' Counsel. Putting aside the challenged comparison of such laws with the Utah law, two states with statutes recently rescinded analogous laws as facially unconstitutional in this month. *See, e.g.,* Chelyen Davis, *Cohabitation Would Be Legal Under Senate Bill*, On Politics, Jan. 29, 2013 (quoting Virginia sponsors as saying only three other states have such cohabitation laws and that the criminal provision is presumptively unconstitutional). Both Virginia and Colorado took this step despite the fact that their laws had been on their books for over a century. In the case of Colorado, the law criminalizing adultery (or supplying housing for such acts) was first enacted over 150 years ago and was repealed on March 22, 2013. *See Bill To Repeal Colorado Adultery Law Signed*, Denver Post, March 22, 2013. In the case of Virginia, the criminalization of cohabitation has been on the books since 1877 and was repealed on March 25, 2013.

Given the reference to other states' statutes by the Defendant, Plaintiffs felt that the court should be notified of the repeals.

Respectfully submitted,

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<sup>1</sup> The transcript for this hearing will not be released by the court until May 2013. Thus, a pinpoint citation is not available at this time.

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### **CERTIFICATE OF SERVICE**

This is to certify that copies of the foregoing PLAINTIFFS' NOTICE OF NEW AUTHORITY was served by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATE: March 26, 2013

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